

TOWN OF CHATHAM
488 State Route 295, Chatham, NY 12037

Town Board Meeting Minutes
Public Hearings on Local Laws A, B, C
Thursday, May 18, 2023 @ 6:30PM

This Meeting is IN PERSON (Town Hall) For Board Members With the Exception of the
Occurrence of Extraordinary Circumstances

IN PERSON and VIRTUAL for the Public

Google Meet: meet.google.com/tqz-efzm-xbh Join By Phone: (US) +1 224-814-1308 PIN: 632 413 079#

PRESENT

Supervisor Donal Collins, Councilmembers Vance Pitkin, Abi Mesick, Town Clerk Beth Anne Rippel, Town Attorney Tal Rappleyea

VIRTUAL

Councilmembers Rick Werwaiss, Destiny Hallenbeck

- **RECORDING NOTICE**

- **CALL TO ORDER**

Supervisor Collins called the meeting to order and led the pledge of allegiance.

- **MOMENT OF SILENCE: North Chatham Fire Chief Brent Gawron**

Ingrid Haeckel joined the meeting to again present the overview of the Community Preservation Plan for the benefit of those who have not seen the Plan and also for those who had questions from the prior presentation. Ingrid is a Conservation and Land Use Specialist with the DEC's Hudson River Estuary Program through partnership with Cornell University. This is a type of plan that is with the goal of preserving community character. It is outlined in state legislation and it identifies farmland, natural areas and historic properties with preservation value. It's a prerequisite for establishing a community preservation fund and it establishes the eligibility for preservation efforts for the specific parcels that could be protected using such a fund. This particular plan has a focus on conservation priorities at the parcel level. A Community Preservation Fund is a dedicated non-transferable fund for preservation efforts. It's a relatively new way of financing land conservation in municipalities in New York State and it can be used to purchase development rights from willing landowners to protect land and most commonly that's done through the purchase of conservation easements. It's financed through a fee on property transfers which is paid by the buyer. It does not raise local property taxes. When somebody buys a

property, this is an additional fee that only applies typically to the value of the property that's above the median value of the area. It is subject to a public referendum. So if the town does approve the Community Preservation Fund law and the laws that are up for public hearing tonight, then this would go to election in November for voters to decide.

-Collins thanked Ingrid for the massive amount of work she's done as well as all others who were involved in the process.

-Eaton asked if there is an electronic version of maps, Ingrid says yes there are PDFs, she can share the GIS version as well.

Back to agenda

- **SEQRA PROCESS for Local Law #A, B, C of 2023:**

- LOCAL LAW A of 2023 Community Preservation Fund and Advisory Board
- LOCAL LAW B of 2023 Adoption of Community Preservation Plan
- LOCAL LAW C of 2023 Adoption of Real Estate Transfer Tax

1. SEQRA Forms

Part 1 great identification in the preservation fund

-Collins stated that after a discussion with our town attorney on how to abbreviate some of this we're going to go through the SEQRA form one in the cursory manner, we're going to go through Environmental Assessment Review form two and three in detail then proceed with the potential negative declaration and public hearings.

Full Environmental Assessment Form

Part 1 -Project and Setting

B. Government Approvals - In bulk: Motion was made by Pitkin, seconded by Mesick to vote "YES" on a., "NO" on b-iii. Motion carried

C. Planning and Zoning

Motion to select yes C1-2 offered by Mesick, seconded by Pitkin and carried.

Motion to select YES on C3 - A, offered by Collins, seconded by Pitkin and carried.

Motion to select N/A on b. offered by Mesick, seconded by Pitkin and carried.

Motion to select NO on c. offered by Collins seconded by Pitkin and carried.

Motion to select C.4 as written offered by Collins seconded by Mesick and carried.

Motion to select N/A on D.1 offered by Collins seconded by Mesick and carried.

Motion to select N/A on E. offered by Collins seconded by Mesick and carried.

Part 2 - Identification of Potential Project Impacts

Section 1. Impact on Land MOTION to select NO offered by Collins seconded by Mesick and carried Move to section 2. 2. I

1A- NO Motion offered by Pitkin seconded by Mesick and carried

B. - e2f, Motion offered by Mesick seconded by Pitkin and carried

C. - e2a, Motion offered by Pitkin seconded by Mesick and carried

D. - e2a, Motion offered by Mesick seconded by Pitkin and carried

E. - d1e Motion offered by Mesick seconded by Werwaiss and carried

F. - d2e and d2q Motion offered by Mesick, seconded by Werwaiss and carried

G. - b1i Motion offered by Pitkin seconded by Mesick and carried

No other impacts

Section 2. Impact on Geological Features

No Motion offered by Collins seconded by Mesick and carried.

Section 3.Impacts on surface water

Motion to select NO on A thru L offered by Collins second by Pitkin and carried.

Section 4.impact on groundwater

NO Motion offered by Collins second by Mesick and carried

Section 5. Impact on Flooding

NO Motion offered by Pitkin second by Mesick and carried

Section 6. Impacts on air

No Motion offered by Collins second by Pitkin and carried

Section 7. No loss of flora and fauna

No Motion offered by Collins second by Mesick and carried

Section 8. Agricultural Resources

No Motion offered by Collins second by Pitkin and carried

Section 9. Impact on Ecstatic resources

NO Motion offered by Collins second by Mesick and carried

Section 10. Historic and Arch resources

NO Motion offered by Collins second by Hallenbeck

Section 11. Impact on Open Space and Recreation

NO Motion offered by Mesick second by Pitkin and carried

Section 12. Impact on Environmental Areas

NO Motion offered by Werwaiss second by Mesick and carried

Section 13 Impact on Transportation

NO Motion offered by Collins second by Pitkin and carried

Section 14 Impact of Energy

NO Motion offered by Mesick second by Werwaiss and carried

Section 15 Impact on Noise, Odors or light

NO Motion offered by Pitkin second by Mesick and carried

Section 16 Impact on Human Health

NO Motion offered by Collins second by Pitkin and carried

Section 17 - Consistency for Community Plans

NO Motion offered by Mesick second by Pitkin and carried

Section 18 Consistency with Community Character

NO Motion offered by Pitkin second by Mesick and carried

PART 3 - Evaluation of the Magnitude and Importance of Project Impacts and

Determination of Significance

A Type 1 Determination of Significance Motion offered by Collins second by Mesick and carried.

Rappleyea: To be clear; This exercise is not really just an exercise but it is a hard look at all the potential environmental impacts, they've all been no and it's not just for a part of this project but it's for the entire project and for each one of the three local laws. Collins offered that this Community Preservation Plan from the Town Board of the Town of Chatham will result in no significant adverse impacts on the environment and therefore an environmental impact statement need not be prepared. Accordingly this negative declaration is issued, Motion by Werwaiss, seconded by Pitkin and carried

2. Resolution #105-23: To make a Negative Declaration for SEQRA on LL#A,B,C of 2023

WHEREAS, The Town Board of the Town of Chatham has determined that it is necessary to adopt local laws:

- LOCAL LAW A of 2023 Community Preservation Fund and Advisory Board
- LOCAL LAW B of 2023 Adoption of Community Preservation Plan
- LOCAL LAW C of 2023 Adoption of Real Estate Transfer Tax, and

WHEREAS, it is necessary for the Town to complete the SEQRA (State Environmental Quality Review Act) process, and

WHEREAS, the Town Board has previously declared itself as Lead Agency for such review and has conducted a close look at all potential environmental issues and found none.

NOW THEREFORE IT IS HEREBY RESOLVED, that the Town Board of the Town of Chatham hereby makes a Negative Declaration for SEQRA process and determines that will not be any substantial potential negative impacts to the environment as a result of the enactment of the local law.

Offered by: Mesick seconded motion: Werwaiss

Post a negative declaration to the END

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck, Werwaiss **NAY:** None

Resolution adopted

• **OPEN PUBLIC HEARING: Local Law #A of 2023: Community Preservation Fund and Advisory Board**

1. **GUIDELINES FOR PROVIDING COMMENTS AT PUBLIC HEARINGS**

- The order of speakers will be chosen randomly, each speaker is allowed 3 minutes
- Speakers may not cede their speaking time to others
- Speakers are not to read from letters that they have already submitted and which are attached to the agenda

2. READING OF PUBLIC HEARING NOTICE:

TOWN OF CHATHAM
488 State Route 295
Chatham, NY 12037
chathamnewyork.us

NOTICE OF PUBLIC HEARING ON:

LOCAL LAW A of 2023 Community Preservation Fund and Advisory Board

LOCAL LAW B of 2023 Adoption of Community Preservation Plan

LOCAL LAW C of 2023 Adoption of Real Estate Transfer Tax

SEQRA Review (FEAF 1, 2, 3)

PLEASE TAKE NOTICE that the Town Board of the Town of Chatham shall hold three public hearings starting at 6:40pm on May 18, 2023. The purpose of the public hearings is to accept public comment on three local laws.

- Copies of the proposed local laws are available in the Town Clerk's office and on the Town website.

All interested parties shall be heard at the time and place specified.

Town Board Meeting (In Person and Virtual)

Thursday, May 18 • 6:30 – 8:00pm

Time zone: America/New York

Google Meet joining info

Video call link: <https://meet.google.com/tqz-efzm-xbh>

Or dial: 1308-814-(US) +1 224 PIN: 632 413 079#

By order of the Town Board,
Beth Anne Rippel, Town Clerk
May 4, 2023

Collins opened the PUBLIC HEARING on LOCAL LAW A

PUBLIC COMMENT

Spencer offers his support of the Fund. He feels there are some ambiguities as to how the fund will be managed. He would like to see mention of the connection to the Comp. Plan. It should work in concert with the CPF.

Collins made a MOTION to close the public hearing at 7:22PM. Hallenbeck seconded and the MOTION carried.

3. **READING OF PROPOSED LAW #A of 2023: Community Preservation Fund and Advisory Board**

LLA Proposed 2023 4-12-23

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE

ONE COMMERCE PLAZA

99 WASHINGTON AVENUE

ALBANY, NY 12231

Town Of Chatham

Local Law No. A (Proposed) of 2023

A Local Law establishing a Community Preservation Fund and creating a Community Preservation Fund Advisory Board as authorized by Town Law § 64-i for the purpose of preserving agricultural, natural, scenic, historic, and open space resources within the Town.

BE IT ENACTED by the Town Board of the Town of Chatham, Columbia County New York, as follows:

SECTION I. - LEGISLATIVE FINDINGS:

The Town of Chatham is distinguished by its unique landscape setting, including the Kinderhook Creek and Watershed, the Stony Kill River, working farms, farmland, woodlands, wetlands and scenic features.

The Town of Chatham's historic features are fundamental to its unique community character and are integral to our landscape and sense of place.

The protection of the Town's natural resources provides clean water, fresh local food and resiliency in the face of climate impacts.

These features contribute to the quality of life for all The Town of Chatham residents and visitors and are important to the economic future of the community.

The Town Board finds that this Local Law is necessary and in the best interests of the Town in order to achieve the balance between development and conservation which is needed to ensure the preservation of the Town's community character.

SECTION II. - TOWN CODE AMENDED:

The Town of Chatham Town Code is hereby amended to add the following provisions, to be found at **Article I of Chapter 82** ("Community Preservation") of the Town Code, said provisions to read as follows:

CHAPTER 82 COMMUNITY PRESERVATION

Article I Establishment of Community Preservation Fund; Community Preservation Advisory Board

§ 82-1 Definitions.

As used in this article, the following words and terms shall have the meanings indicated:

ADVISORY BOARD - The Town of Chatham Community Preservation Fund Advisory Board created under this article.

COMMUNITY PRESERVATION - Preservation of community character shall involve one or more of the following:

- A. Preservation of open space.
- B. Establishment of parks, nature preserves, or recreational areas
- C. Preservation of land, which is predominantly viable agricultural land, as defined in subdivision 7 of Section 301 of the Agriculture and Markets Law, or unique and irreplaceable agricultural land, as defined in subdivision 6 of Section 301 of the Agriculture and Markets Law.
- D. Preservation of lands of exceptional scenic value.
- E. Preservation of freshwater marshes or other wetlands.
- F. Preservation of aquifer recharge areas.
- G. Preservation of undeveloped beach-lands or shoreline.
- H. Establishment of wildlife refuges for the purpose of maintaining native animal species diversity, including the protection of habitat essential to the recovery of rare, threatened or endangered species.
- I. Preservation of unique or threatened ecological areas.

J. Preservation of rivers and river areas in natural, free-flowing condition.

K. Preservation of forested land.

L. Preservation of public access to lands for public use, including stream rights and waterways.

M. Preservation of historic places and properties listed on the New York State Register of Historic Places and/or protected under a municipal historic preservation ordinance or law.

N. Undertaking any of the purposes of this article in furtherance of the establishment of a greenbelt.

FUND - The Town of Chatham Community Preservation Fund established by this article.

§ 82-2 Fund established.

- A. The Town of Chatham Community Preservation Fund is hereby established pursuant to § 64-i of the Town Law.
- B. Deposits into the Fund may include revenues of the Town from whatever source and shall include all revenues from the real estate transfer tax imposed pursuant to Chapter 60 of Part II of the Town Code as authorized by § 64-i of the Town Law and Article 31-A-2 of the Tax Law of the State of New York.
- C. The Fund shall also be authorized to accept gifts of any such interests in land or of funds.
- D. Interest accrued by monies deposited in the Fund shall be credited to the Fund. In no event shall monies deposited in the Fund be transferred into any other account.
- E. Nothing contained in this article shall be construed to prevent the financing, in whole or in part, pursuant to the Local Finance Law of the State of New York, of any acquisition authorized pursuant to this article. Monies from the Fund may be utilized to repay any indebtedness or obligations incurred pursuant to the Local Finance Law of the State of New York, consistent with effectuating the purposes of this article.

§ 82-3 Purposes of Fund.

A. The purposes of the Fund shall be exclusively:

- (1) To implement a plan for the preservation of community character as required by § 64-i of the Town Law and this article;
- (2) To acquire interests or rights in real property for the preservation of community character within the Town, including villages therein, in accordance with such plan and in cooperation with willing sellers;
- (3) To establish a bank pursuant to a transfer of development rights program consistent with §261-a of the Town Law;
- (4) To provide a management and stewardship program for such interests and rights, consistent with subdivision 10 of § 64-i of the Town Law and this article and in accordance with such plan designed to preserve community character; and

B. The acquisition of interests and rights in real property under the Fund shall be in cooperation with willing sellers.

C. Not more than 10% of the Fund shall be utilized for the management and stewardship program provided for in subsection **A(4)** of this **§ 82-3**.

D. The preservation of agriculture and in particular working farms is a primary priority for the Fund.

E. If the implementation of the Community Preservation Project Plan adopted by the Town Board as provided in subdivision 7 of § 64-i of the Town Law has been completed, and funds are no longer required for the purposes outlined in this article, any remaining monies in the Fund shall be applied to reduce any bonded indebtedness or obligations incurred to effectuate the purposes of this article.

F. Any monies expended from the Fund shall be consistent with the purposes set forth in **§ 82-3**, the definition of "community preservation" set forth in **§ 82-1**, and the Community Preservation Project Plan adopted by the Town Board in accordance with subdivision 7 of § 64-i of the Town Law.

G. The Board may study and consider establishing a transfer of development rights program to protect community character as provided for by § 261-a of the Town Law. If at any time during the life of the Fund such a transfer of development rights program is established, the Town may utilize monies from the Fund in order to create and fund a central bank of the transfer of development rights program. If at any time during the life of the Fund a transfer of development rights program is repealed by the Town, all monies from the central bank shall be returned to the Fund.

§ 82-4 Advisory Board established.

- A. A Community Preservation Fund Advisory Board is hereby established to review and make recommendations on proposed acquisitions of interests in real property using monies from the Fund.
- B. Such Board shall consist of five members who shall be legal residents of the Town and who shall serve without compensation. No member of the Town Board shall serve on the Advisory Board. Members initially appointed to the Board shall serve staggered terms as follows: one member shall be appointed for a term expiring at the end of the municipal official year in which initially appointed, and the terms of the remaining members shall expire at the end of each official year thereafter. At the expiration of the term of each member first appointed, their successor shall be appointed for a term of five years. No member shall serve longer than three full terms.
- C. A majority of the members appointed shall have demonstrated experience with conservation or land-preservation activities. At least one member of the Board shall be an active farmer.
- D. The Board shall act in an advisory capacity to the Town Board

§ 82-5 Public hearing prior to land acquisition; exception.

- A. No interest or right in real property shall be acquired pursuant to this article until a public hearing is held as required by § 247 of the General Municipal Law.
- B. Nothing herein shall prevent the Town Board from entering into a conditional purchase agreement before a public hearing is held.
- C. Any resolution of the Town Board approving an acquisition of rights or interest in real property pursuant to this article shall find that acquisition was the best alternative for the protection of community character of all the reasonable alternatives available to the Town.

§82-6 Management of Acquired Interests.

- A. Rights or interests in real property acquired under this article shall be administered and managed in a manner which:
 - (1) Allows public use and enjoyment in a manner compatible with the natural, scenic, historic, and open space character of such lands;

(2) Preserves the native biological diversity of such lands;

(3) With regard to open spaces, limits improvements to enhancing access for passive use of such lands, such as nature trails, boardwalks, bicycle paths, , and peripheral parking areas, provided that such improvements do not degrade the ecological value of the land or threaten essential wildlife habitat; and

(4) Preserves cultural property consistent with accepted standards for historic preservation.

- B. Notwithstanding any other provision of this article there shall be no right to public use and enjoyment of land used in conjunction with a farm operation as defined by subdivision 11 of Section 301 of the Agriculture and Markets Law.
- C. The Town may enter into agreements with corporations, organized under the Not-For-Profit Corporations Law that engage in land trust activities to manage lands, including less than fee interests acquired pursuant to this article.
- D. Any such agreement shall contain a provision that such corporation shall keep the lands accessible to the public unless such corporation shall demonstrate to the satisfaction of the Town that public accessibility would be detrimental to the lands or any natural features associated therewith. Any such agreement shall contain a provision that such corporation shall keep and manage the lands consistent with subdivision 10 of § 64-i of the Town Law and this article.

§ 82-7 Disposal of lands acquired with Fund monies.

- A. Rights or interests in real property acquired with monies from the Fund shall not be sold, leased, exchanged, donated or otherwise disposed of or used for other than the purposes permitted by this article without the express authority of an act of the State Legislature, which shall provide for the substitution of other lands of equal environmental value and fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by the State Legislature.
- B. Any conservation easements created under Title 3 of Article 49 of the Environmental Conservation Law, which are acquired with monies from such Fund, may only be modified or extinguished as provided in § 49-0307 of such law.
- C. Nothing in this article shall preclude the Town, by local law, from establishing additional restrictions to the alienation of lands acquired pursuant to this article. This § 82-7 shall not apply to the sale of development rights by the Town acquired pursuant to this article, where said sale is made by a central bank created by the Town, pursuant to a transfer of development rights program established by the Town pursuant to § 261-a of the Town Law. However, said development rights program shall provide that:

(1) The lands from which said development rights were acquired shall remain preserved in perpetuity via a permanent conservation easement or other instrument that similarly preserves community character as defined in this article; and

(2) The proceeds from such sale shall be deposited in the Fund.

SECTION III. STATEMENT OF AUTHORITY

This local law is authorized by the New York State Constitution, Article IX, Section 2, the provisions of the New York Municipal Home Rule Law (MHRL), the provisions of the Statute of Local Governments, § 64-i of the New York Town Law, and the laws of the Town of Chatham.

SECTION IV. SEVERABILITY:

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION V. EFFECTIVE DATE:

This local law shall take effect on the date it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.

Supervisor Collins opened PUBLIC HEARING on **Local Law #B of 2023: Adoption of Community Preservation Plan**

PUBLIC COMMENT - None

A MOTION was made by Supervisor Collins to close the public hearing, seconded by Hallenbeck and carried.

1. GUIDELINES FOR PROVIDING COMMENTS AT PUBLIC HEARINGS

- The order of speakers will be chosen randomly, each speaker is allowed 3 minutes
- Speakers may not cede their speaking time to others
- Speakers are not to read from letters that they have already submitted and which are attached to the agenda

2. PUBLIC HEARING NOTICE

3. **READING OF PROPOSED LAW #B of 2023: Adoption of Community Preservation Plan**

LLB Proposed 2023 4-12-23

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231

Town of Chatham

Local Law B (proposed) of 2023

A Local Law Adopting A Community Preservation Project Plan

BE IT ENACTED by the Town Board of The Town of Chatham, Columbia County, New York as follows:

SECTION I. PURPOSE

The purpose of this local law is to meet and implement the requirements of Section 64-i of the Town Law by establishing and creating the Town of Chatham Community Preservation Project Plan to help guide the Town's efforts to preserve agricultural, natural, scenic, historic and open space resources within the Town.

SECTION II. TOWN CODE AMENDED:

Pursuant to provisions of Section 64-i of the Town Law, Chapter 82 of the Chatham Town Code entitled "Community Preservation" is hereby amended to add the following new Article II of Chapter 82 of the Town Code, to be entitled "Community Preservation Project Plan," said provision to read as follows:

Article II: Community Preservation Project Plan: A copy of the Community Preservation Plan on file with the Town Clerk is attached hereto and incorporated as if fully set forth in this place. Said plan is intended to be the community preservation project plan required by subdivision 7 of Section 64-i of the Town Law.

SECTION III. STATEMENT OF AUTHORITY

This local law is authorized by the New York State Constitution, Article IX, Section 2, the provisions of the New York Municipal Home Rule Law (MHRL), the provisions of the Statute of Local Governments, § 64-i of the New York Town Law, and the laws of the Town of Chatham.

SECTION IV. SEVERABILITY:

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence,

paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION V. EFFECTIVE DATE:

This local law shall take effect on the date it is filed with the Secretary of State as provided in Section twenty-seven of the Municipal Home Rule Law.

- Supervisor Collins opened the **PUBLIC HEARING** on Local Law #C of 2023: Adoption of Real Estate Transfer Tax

1. **GUIDELINES FOR PROVIDING COMMENTS AT PUBLIC HEARINGS**

- The order of speakers will be chosen randomly, each speaker is allowed 3 minutes
- Speakers may not cede their speaking time to others
- Speakers are not to read from letters that they have already submitted and which are attached to the agenda

2. **PUBLIC HEARING NOTICE read:**

PUBLIC COMMENT

- Tim Mackerer asked if there is flexibility to move this above the median home price (\$370K currently). Rappleyea stated that the legislature is the one who sets the guidelines.. No, there is no flexibility. Mackerer suggested a sliding scale. HE is concerned about the inability of families to afford the additional cost.

Pitkin will support the Plan but is concerned about housing affordability.

Spencer - asked where the median house price comes from. Collins answered that they get the number from the NYS Board of Real Property Tax Service.

“What if” questions were asked. .

Supervisor Collins said that it is advised that the Board **leave the Public Hearing open** until the Town Board workshop meeting on June 6 at 630 PM to accept additional comments.

3. **READING OF PROPOSED LAW #C of 2023: Adoption of Real Estate Transfer Tax**

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231

Town of Chatham

Local Law No. C [Proposed] of 2023

A LOCAL LAW TO PRESERVE WORKING FARMS; PROTECT FARMLAND; PRESERVE AND ESTABLISH PARKS AND RECREATIONAL AREAS; AND PROTECT HISTORIC RESOURCES AND NATURAL AREAS; PROTECT THE WATER QUALITY OF RIVERS, LAKES, AND STREAMS, INCLUDING THE KINDERHOOK CREEK AND STONYKILL

RIVER;; AND PROTECT THE WATER QUALITY OF CHATHAM'S DRINKING WATER BY CREATING A ONE AND ONE HALF PERCENT REAL ESTATE TRANSFER TAX ON THE CONVEYANCE OF INTERESTS IN REAL PROPERTY IN THE TOWN, WITH REVENUES FROM THIS TAX TO BE DEPOSITED IN THE TOWN OF CHATHAM COMMUNITY PRESERVATION FUND, WHICH MAY BE MATCHED BY STATE AND FEDERAL FUNDING AND WHICH WILL REQUIRE FULL PUBLIC DISCLOSURE OF ALL SPENDING.

BE IT ENACTED by the Town Board of the Chatham, Columbia County, New York, as follows:

SECTION 1. - LEGISLATIVE FINDINGS:

The Town of Chatham is distinguished by its unique landscape setting, including working farms, farmland, woodlands, wetlands, The Kinderhook Creek and Watershed, the Stony Kill River, and scenic features.

The protection of the Town's natural resources provides clean water, fresh local food and resiliency in the face of climate impacts.

These features contribute to the quality of life for all Town residents and visitors and are important to the economic future of the community.

The Town Board finds that this Local Law is necessary and in the best interests of the Town in order to achieve the balance between development and conservation which is needed to ensure the preservation of the Town's community character.

SECTION II. - TOWN CODE AMENDED:

The Chatham Town Code is hereby amended to add thereto the following new chapter to be entitled "Real Estate Transfer Tax", to be found at Part II, Finance and Taxation ("Community Preservation Fund Transfer Tax") of the Town Code, said new chapter to read as follows:

CHAPTER 60 REAL ESTATE TRANSFER TAX

60-1. Definitions.

As used in this chapter, the following words and terms shall have the meanings indicated:

CONSIDERATION - shall mean the price actually paid or required to be paid for the real property or interest therein, including payment for an option or contract to purchase real property, whether or not expressed in the deed and whether paid or required to be paid by money, property, or any other thing of value. It shall include the cancellation or discharge of an indebtedness or obligation. It shall also include the amount of any mortgage, purchase money

mortgage, lien, or other encumbrance, whether or not the underlying indebtedness is assumed or taken subject to.

- (A) In the case of a creation of a leasehold interest or the granting of an option with use and occupancy of real property, consideration shall include, but not be limited to, the value of the rental and other payments attributable to the use and occupancy of the real property or interest therein, the value of any amount paid for an option to purchase or renew, and the value of rental or other payments attributable to the exercise of any option to renew.
- (B) In the case of a creation of a subleasehold interest, consideration shall include, but not be limited to, the value of the sublease rental payments attributable to the use and occupancy of the real property, the value of any amount paid for an option to renew, and the value of rental or other payments attributable to the exercise of any option to renew, less the value of the remaining prime lease rental payments required to be made.
- (C) In the case of a controlling interest in any entity that owns real property, consideration shall mean the fair market value of the real property or interest therein, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.
- (D) In the case of an assignment or surrender of a leasehold interest or the assignment or surrender of an option or contract to purchase real property, consideration shall not include the value of the remaining rental payments required to be made pursuant to the terms of such lease or the amount to be paid for the real property pursuant to the terms of the option or contract being assigned or surrendered.
- (E) In the case of (i.) the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor and (ii.) the subsequent conveyance by the owner thereof of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold for a cooperative unit other than an individual residential unit, consideration shall include a proportionate share of the unpaid principal of any mortgage on the real property of the cooperative housing corporation comprising the cooperative dwelling or dwellings. Such share shall be determined by multiplying the total unpaid principal of the mortgage by a fraction, the numerator of which shall be the number
of shares of stock being conveyed in the cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold and the denominator of which shall be the total number of shares of stock in the cooperative housing corporation.

CONTROLLING INTEREST -

A. In the case of a corporation, either fifty percent (50%) or more of the total combined voting power of all classes of stock of such corporation, or fifty percent (50%) or more of the capital, profits, or beneficial interest in such voting stock of such corporation, and

- B. In the case of a partnership, association, trust, or other entity, fifty percent (50%) or more of the capital, profits, or beneficial interest in such partnership, association, trust or other entity.

CONVEYANCE -

The transfer or transfers of any interest in real property by any method including but not limited to sale, exchange, assignment, surrender, mortgage foreclosure, transfer in lieu of foreclosure, option, trust indenture, taking by eminent domain, conveyance upon liquidation or by a receiver, or transfer or acquisition of a controlling interest in any entity with an interest in real property. Transfer of an interest in real property shall include the creation of a leasehold or sublease only where:

- A. the sum of the term of the lease or sublease and any options for renewal exceeds forty-nine (49) years,
- B. substantial capital improvements are or may be made by or for the benefit of the lessee or sublessee, and
- C. the lease or sublease is for substantially all of the premises constituting the real property.

Notwithstanding the foregoing, conveyance of real property shall not include a conveyance pursuant to devise, bequest, or inheritance; the creation, modification, extension, spreading, severance, consolidation, assignment, transfer, release or satisfaction of a mortgage; a mortgage subordination agreement, a mortgage severance agreement, an instrument given to perfect or correct a recorded mortgage; or a release of lien of tax pursuant to the State Tax Law or the Internal Revenue Code.

FUND - shall mean the Town of Chatham Community Preservation Fund created and established pursuant to Section 64-i of the Town Law and Article I of chapter 82 of the Town Code.

GRANTEE - shall mean the person who obtains real property or an interest therein as a result of a conveyance.

GRANTOR - shall mean the person making the conveyance of real property or interest therein. Where the conveyance consists of a transfer or an acquisition of a controlling interest in an entity with an interest in real property, "Grantor" shall mean the entity with an interest in real property or a shareholder or partner transferring stock or partnership interest, respectively.

INTEREST IN REAL PROPERTY - shall include title in fee, a leasehold interest, a beneficial interest, an encumbrance, development rights, air space and air rights, or any other interest with the right to use or occupancy of real property or the right to receive rents, profits or other

income derived from real property. It shall also include an option or contract to purchase real property. It shall not include a right of first refusal to purchase real property.

PERSON - shall mean an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two (2) or more persons.

REAL PROPERTY - shall mean every estate or right, legal or equitable, present or future, vested or contingent, in lands, tenements or hereditaments, including buildings, structures and other improvements thereon, which are located in whole or in part within the Town. It shall not include rights to sepulture.

RECORDING OFFICER - shall mean the County Clerk of the county of Columbia.

RESIDENTIAL REAL PROPERTY- shall mean the property which satisfies at least one of the following conditions:

- A. The property classification code assigned to the property on the latest final assessment roll, as reported in the transfer report form, indicates that the property is a one, two or three family home or a rural residence;
- B. the transfer report indicates that the property is a one, two or three family residential property that has been newly constructed on vacant land;
- C. The transfer report form indicates the property is a residential condominium.

TAX - shall mean the real estate transfer tax imposed pursuant to this chapter and § 1438-b of the New York Tax Law or, if the context clearly indicates, shall mean the real estate transfer tax imposed pursuant to Article 31 of the New York Tax Law.

TOWN - shall mean the Town of Chatham, county of Columbia.

TOWN SUPERVISOR - shall mean the Town Supervisor of the Town of Chatham.

TREASURER - shall mean the Treasurer of the county of Columbia.

60-2. Imposition of real estate transfer tax.

There is hereby imposed in the Town of Chatham a tax on each conveyance of real property or interest therein, as authorized by Article 31-A-2 of New York Tax Law, the rate of such tax to be one and one half percent (1.50%) of the consideration for such conveyance. Revenues from such tax shall be deposited in the Town of Chatham Community Preservation Fund established pursuant to Article I of Chapter 82 of the Town Code and may be used solely for the purpose of said fund. Such tax shall apply to any conveyance occurring on or after February 1, 2024 , but shall not apply to conveyances made on or after such date pursuant to binding written contracts

entered into prior to such date, provided that the date of execution of such contract is confirmed by independent evidence such as the recording of the contract, payment of a deposit, or other facts and circumstances as determined by the County Treasurer.

§ 60-3. Payment of tax.

- A. The real estate transfer tax imposed pursuant to this chapter shall be paid to the Treasurer, or to the Recording Officer acting as the agent of the Treasurer upon designation as such agent by the Treasurer. Such tax shall be paid at the same time as the real estate transfer tax imposed by Article 31 of the New York Tax Law is required to be paid. Such Treasurer or Recording Officer shall endorse upon each deed or instrument effecting a conveyance a receipt for the amount of the tax so paid.
- B. A return shall be required to be filed with such Treasurer or Recording Officer for purposes of the real estate transfer tax imposed pursuant to this chapter at the same time as a return is required to be filed for purposes of the real estate transfer tax imposed by Article 31 of the Tax Law. The Treasurer shall prescribe the form of return, the information that it shall contain, and the documentation that shall accompany the return. Said form shall be identical to the real estate transfer tax return required to be filed pursuant to Section 1409 of the New York Tax Law, except that the Treasurer shall adapt said form to reflect the provisions of this chapter which are inconsistent with, different from, or in addition to the provisions of Article 31 of the Tax Law. The real estate transfer tax returns required to be filed pursuant to this section are required to be preserved for three (3) years and thereafter until such Treasurer or Recording Officer orders them to be destroyed.
- C. The Recording Officer shall not record an instrument effecting a conveyance unless the return required by this section has been filed and unless the tax imposed pursuant to this chapter shall have been paid as provided in this section.

§ 60-4. Liability for tax.

- A. The real estate transfer tax required hereunder shall be paid by the grantee. If the grantee has failed to pay the tax imposed pursuant to this chapter, or if the grantee is exempt from such tax, the grantor shall have the duty to pay the tax. Where the grantor has the duty to pay the tax because the grantee has failed to pay, such tax shall be the joint and several liability of the grantee and the grantor.
- B. For the purpose of the proper administration of this chapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all conveyances are subject to the tax. Where the consideration includes property other than money, it shall be presumed that the consideration is the fair market value of the real property or interest therein. These presumptions shall prevail until the contrary is proven, and the burden of proving the contrary shall be on the person liable for payment of the tax.

§ 60-5. Exemptions from tax.

A. Exemption for government agencies. The following entities shall be exempt from payment of the real estate transfer tax imposed by this chapter:

- (1) The State of New York or any of its agencies, instrumentalities, political subdivisions, or public corporations (including a public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada);
- (2) The United Nations; and
- (3) The United States of America and any of its agencies or instrumentalities.

B. Exemption for certain conveyances. The real estate transfer tax imposed by this chapter shall not apply to any of the following conveyances:

- (1) Conveyances to the United Nations, the United States of America, the State of New York or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada);
- (2) Conveyances which are or were used to secure a debt or other obligation;
- (3) Conveyances which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded;
- (4) Conveyances of real property without consideration and otherwise than in connection with a sale, including conveyances conveying realty as bona fide gifts;
- (5) Conveyances given in connection with a tax sale;
- (6) Conveyances to effectuate a mere change of identity or form of ownership or organization where there is no change in beneficial ownership, other than conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings;
- (7) Conveyances which consist of a deed of partition;
- (8) Conveyances given pursuant to the Federal Bankruptcy Act;
- (9) Conveyances of real property which consist of the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property;
- (10) Conveyances of real property where the entire parcel of real property is the subject of one or more of the following development restrictions:
 - (a) An agricultural, conservation, scenic, or open space easement;

- (b) Covenants or restrictions prohibiting development where the property or portion of property being conveyed has had its development rights permanently removed;
- (c) A purchase of development rights agreement where the property or portion of property being conveyed has had its development rights permanently removed;
- (d) A transfer of development rights agreement, where the property being conveyed has had its development rights removed;
- (e) Real property subject to any locally adopted land preservation agreement;

(11) Conveyances of real property, where the property is viable agricultural land as defined in subdivision (7) of Section 301 of the Agriculture and Markets Law and the entire property to be conveyed is to be made subject to one of the development restrictions provided for in subdivision (b) of the preceding paragraph (10), provided that said development restriction precludes the conversion of the property to a non-agricultural use for at least eight years from the date of transfer, and said development restriction is evidenced by an easement, agreement, or other suitable instrument which is to be conveyed to the Town simultaneously with the conveyance of the real property;

(12) Conveyances of real property for open space, parks, or historic preservation purposes to any not-for-profit tax-exempt corporation operated for conservation, environmental, or historic preservation purposes.

§ 60-6. Additional exemption.

There shall be allowed an exemption of an amount equal to the median sales price of residential real property within the County of Columbia, as determined by the New York Office of Real Property Services (now the New York Department of Taxation and Finance) pursuant to §425 of Real Property Tax Law, on the consideration of the conveyance of improved or unimproved real property or an interest therein.

§60-7. Credit for prior tax paid on creation of leasehold or grant of option or contract to purchase.

A grantee shall be allowed a credit against the tax due on a conveyance of real property to the extent that tax was paid by such grantee on a prior creation of a leasehold of all or a portion of the same real property or on the granting of an option or contract to purchase all or a portion of the same real property by such grantee. Such credit shall be computed by multiplying the tax paid on the creation of the leasehold or on the granting of the option or contract by a fraction, the numerator of which is the value of the consideration used to compute such tax paid which is not yet due to such grantor on the date of the subsequent conveyance (and which such grantor will not be entitled to receive after such date) and the denominator of which is the total value of the consideration used to compute such tax paid.

§ 60-8. Cooperative housing corporation transfers.

A. Notwithstanding the definition of "controlling interest" contained in § 60-1 hereof or anything to the contrary found in the definition of "conveyance" contained in said section, the tax imposed pursuant to this chapter shall apply to the following:

(1) The original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor;

(2) The subsequent conveyance of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the owner thereof.

With respect to any such subsequent conveyance where the property is an individual residential unit, the consideration for the interest conveyed shall exclude the value of any liens on certificates of stock or other evidences of an ownership interest in and a proprietary lease from a corporation or partnership formed for the purpose of cooperative ownership of residential interest in real estate remaining thereon at the time of conveyance. In determining the tax on a conveyance described in paragraph A (1) above, a credit shall be allowed for a proportionate part of the amount of any tax paid upon the conveyance to the cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings to the extent that such conveyance effectuated a mere change of identity or form of ownership of such property and not a change in the beneficial ownership of such property. The amount of credit shall be determined by multiplying the amount of tax paid upon the conveyance to the cooperative housing corporation by a percentage representing the extent to which such conveyance effectuated a mere change of identity or form of ownership and not a change in the beneficial ownership of such property, and then multiplying the resulting product by a fraction, the numerator of which shall be the number of shares of stock conveyed in a transaction described in paragraph A (1) and the denominator of which shall be the total number of shares of stock of the cooperative housing corporation (including any stock held by the corporation). In no event, however, shall such credit reduce the tax on a conveyance described in paragraph A (1) below zero, nor shall any such credit be allowed for a tax paid more than twenty-four (24) months prior to the date on which occurs the first in a series of conveyances of shares of stock in an offering of cooperative housing corporation shares described in paragraph A (1).

B. Every cooperative housing corporation shall be required to file an information return with the County Treasurer by July 15th of each year covering the preceding period of January 1 through June 30 and by January 15th of each year covering the preceding period of July 1 through December 31. The return shall contain such information regarding the conveyance of shares of stock in the cooperative housing corporation as the Treasurer may deem necessary, including, but not limited to, the names, addresses, and employee identification numbers or social security numbers of the grantor and the grantee, the number of shares conveyed, the date of the conveyance, and the consideration paid for such conveyance.

§ 60-9. Designation of agent by County Treasurer.

The County Treasurer is authorized by law to designate the Recording Officer to act as such officer's agent for the purpose of collecting the tax authorized by this chapter. The Treasurer shall provide for the manner in which such person may be designated as such officer's agent

subject to such terms and conditions as such officer shall prescribe. The real estate transfer tax shall be paid to such agent as provided in § 60-3 hereof.

§ 60-10. Liability of Recording Officer.

A Recording Officer shall not be liable for any inaccuracy in the amount of tax imposed pursuant to this chapter that he shall collect so long as such officer shall compute and collect such tax on the amount of consideration or the value of the interest conveyed as such amounts are provided to such officer by the person paying the tax.

§ 60-11. Refunds.

Whenever the Treasurer shall determine that any moneys received under the provisions of this chapter were paid in error, the Treasurer may cause such money to be refunded pursuant to such requirements as the Treasurer may prescribe, provided that any application for such refund is filed with the Treasurer within two (2) years from the date the erroneous payment was made.

§60-12. Deposit and disposition of revenue.

- A. All taxes, penalties, and interest imposed by the Town under the authority of § 60-2 (Imposition of Real Estate Transfer Tax) of this chapter, which are collected by the Treasurer or such officer's agents, shall be deposited in a single trust fund for the Town and shall be kept in trust and separate and apart from all other monies in possession of the Treasurer. Moneys in such fund shall be deposited and secured in the manner provided by Section 10 of the General Municipal Law. Pending expenditure from such fund, moneys therein may be invested in the manner provided in Section 11 of the General Municipal Law. Any interest earned or capital gain realized on the moneys so deposited or invested shall accrue to and become part of such fund.
- B. The Treasurer shall retain such amount as he or she may determine to be necessary for refunds with respect to the tax imposed by the Town under the authority of § 60-2 of this chapter, out of which the Treasurer shall pay any refunds of such taxes to those taxpayers entitled to a refund pursuant to the provisions of this chapter.
- C. The Treasurer, after reserving such funds, shall on or before the twelfth day of each month, pay to the Town Supervisor the taxes, penalties, and interest imposed by the Town under the authority of this chapter, collected by the Treasurer pursuant to this chapter during the next preceding calendar month. The amount so payable shall be certified to the Town Supervisor by the Treasurer, who shall not be held liable for any inaccuracy in such certification. However, any such certification may be based on such information as may be available to the Treasurer at the time such certification must be made under this section.
- D. Where the amount so paid over to the Town in any such distribution is more or less than the amount due to the Town, the amount of the overpayment or underpayment shall be certified to the Town Supervisor by the Treasurer, who shall not be held liable for any inaccuracy in such certification. The amount of the underpayment or overpayment shall be so certified to the Town Supervisor as soon after the discovery of the overpayment or underpayment as reasonably

possible and subsequent payments and distributions by the Treasurer to such Town shall be adjusted by subtracting the amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the Treasurer and Town Supervisor shall consider reasonable in view of the underpayment or overpayment and all other facts and circumstances.

- E. All monies received from the Treasurer by the Town Supervisor shall be deposited in the Community Preservation Fund established pursuant to Article I of Chapter 82 of the Town Code (Community Preservation Fund).

§ 60-13. Judicial review.

- A. Any final determination of the amount of any tax payable under this chapter shall be reviewable for error, illegality, or unconstitutionality, or any other reason whatsoever, by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is

made to the Supreme Court within four (4) months after the giving of the notice of such final determination; provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:

(1) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by this Chapter, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in New York State and approved by the State Superintendent of Financial Services as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding shall be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

(2) At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interest, and penalties stated in such determination, plus the costs and charges which may accrue against such petitioner in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest, or penalties as a condition precedent to the application.

- B. Where any tax imposed hereunder shall have been erroneously, illegally, or unconstitutionally assessed or collected, and application for the refund or revision thereof duly made to the Treasurer, and such Treasurer shall have made a determination denying such refund or revision, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that:

(1) Such proceeding is instituted within four (4) months after the giving of the notice of such denial;

(2) A final determination of tax due was not previously made; and

- (3) An undertaking is filed with the Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding is dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

§60-14. Apportionment of consideration subject to tax for property located only partly within Town.

- A. Where real property is situated partly within and partly without the boundaries of the Town, the consideration subject to tax is such part of the total consideration as is attributable to the portion of such real property situated within the Town or to the interest in such portion. If the consideration attributable to the property located in the Town is set forth in the contract, such amount may be used to compute the tax due.
- B. If the contract does not set forth the amount of consideration attributable to the portion of real property or interest therein situated within the Town, the consideration shall be reasonably allocated between the portion of such property or interest therein situated within the Town and the portion of such property or interest therein situated without the Town. If the grantor and the grantee enter into a written agreement, signed by both the grantor and the grantee, which sets forth a reasonable allocation of consideration, that allocation of consideration may be used to compute the tax due. If the grantor and the grantee do not enter into such an agreement, or if the allocation of consideration set forth in such agreement is deemed unreasonable by the Treasurer, the allocation of consideration must be computed by multiplying the amount of consideration by a fraction, the numerator of which is the fair market value of the real property or interest therein situated within the Town, and the denominator of which is the total fair market value of all the real property or interest therein being conveyed. Except in the case of a transfer or acquisition of a controlling interest where consideration means fair market value of the real property or interest therein, the tax shall be computed on the allocated portion of the actual consideration paid, even if that amount is greater or less than the fair market value as determined by appraisal.
- C. Where the methods provided under this section do not allocate the consideration in a fair and equitable manner, the Treasurer may require the grantor and grantee to allocate the consideration under such method as such officer prescribe, so long as the prescribed method results in a fair and equitable allocation.

§ 60-15. Determination of tax; petition to Town Supervisor.

- A. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Treasurer from such records or information as may be obtainable, including the assessed valuation of the real property or interest therein and other appropriate factors. Notice of such determination shall be given to the person liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within ninety (90) days after the giving of notice of such determination, shall petition the Town Supervisor for a hearing, or unless the Treasurer, on the Treasurer's own motion, shall redetermine the same. The Town Supervisor may designate,

in writing, a hearing officer to hear such an appeal, which hearing officer shall file a written report and recommendation with the Town Supervisor. In any case before the Town Supervisor under this chapter, the burden of proof shall be on the petitioner. After such hearing, the Town Supervisor shall give notice of the determination to the person against whom the tax is assessed and to the Treasurer. Such determination may be reviewed in accordance with the provisions of § 60-13 (Judicial Review) of this chapter. A proceeding for judicial review shall not be instituted unless:

- (1) The amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Treasurer and there shall be filed with the

Treasurer an undertaking, issued by a surety company authorized to transact business in New York State and approved by the State Superintendent of Financial Services as to solvency and responsibility, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding shall be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of the proceeding; or

- (2) At the option of the petitioner, such undertaking filed with the Treasurer may be in a sum sufficient to cover the taxes, penalties, and interest thereon stated in such decision, plus the costs and charges which may accrue against the petitioner in the prosecution of the proceeding; in which event, the petitioner shall not be required to deposit such taxes, penalties, and interest as a condition precedent to the commencement of the proceeding.

- B. A person liable for the tax imposed by this chapter (whether or not a determination assessing a tax pursuant to subsection A of § 60-14 hereof has been made) shall be entitled to have the tax due finally and irrevocably fixed prior to the ninety (90) day period referred to in subsection A by filing with the Treasurer a signed statement consenting thereto, in writing and in such form as the Treasurer shall prescribe.
- C. The remedies provided by this section and § 60-13 (Judicial Review) of this chapter shall be the exclusive remedies available to any person for the review of tax liability imposed by this chapter.

§ 60-16. Proceedings to recover tax due.

- A. Whenever any person shall fail to pay any tax, penalty, or interest imposed by this chapter, the Town Attorney or Attorneys designated by the Town shall, upon the request of the Treasurer, bring or cause to be brought, an action to enforce the payment of the same on behalf of the Town, in any court of the State of New York or of any other state or of the United States.
- B. As an additional and alternative remedy, the Treasurer may issue a warrant, directed to the Sheriff of Columbia County, commanding such officer to levy upon and sell any real and personal property of a grantor or grantee liable for the tax which may be found within the County, for payment of the amount thereof, with any penalty and interest and the cost of executing the warrant, and to return such warrant to the Treasurer and to pay the Treasurer the money collected by virtue thereof within sixty (60) days after the receipt of the warrant. The

Sheriff shall, within five (5) days after the receipt of the warrant, file with the Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalty, and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien on the title to and interest in real and personal property of the person against whom the warrant is issued. Such lien shall not apply to personal property unless such warrant is filed with the Department of State. The Sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Treasurer, a warrant of like terms, force, and effect may be issued and directed to any officer or employee of the county; and in the execution thereof, such officer or employee shall have all the powers conferred by law upon Sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. Upon such filing of a copy of a warrant, the Treasurer shall

have the same remedies to enforce the amount due thereunder as if the County of Columbia had recovered the judgment therefor.

§ 60-17. Interest and civil penalties.

- A. Any grantor or grantee failing to file a return or to pay any tax within the time required by this chapter shall be subject to a penalty of ten percent (10%) of the amount of the tax due plus an interest penalty of two percent (2%) of such amount, for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due; such interest penalty shall not exceed twenty- five percent (25%) in the aggregate. If the Treasurer determines that such failure or delay was due to reasonable cause and not due to willful neglect, the Treasurer shall remit, abate or waive all of such penalty and interest penalty.
- B. If any amount of tax is not paid on or before the last date prescribed in § 60-3 (Payment of Tax) hereof for payment, interest on such amount shall be paid for the period from such last date to the date paid at the underpayment rate set by the State Commissioner of Taxation and Finance on underpayment of the taxes imposed by Article 31 of the Tax Law. If the County Treasurer determines that there has been an overpayment of tax, interest at the overpayment rate set by the State Commissioner of Taxation and Finance for payments due pursuant to Article 31 of the Tax Law shall be paid by the County Treasurer to the seller or buyer, on any refund paid pursuant to the provisions of this chapter.
- C. The penalties and interest provided for in this section shall be paid to the County Treasurer and shall be determined, assessed, collected and distributed in the same manner as the tax imposed by this chapter, and any reference to tax in this chapter shall be deemed to refer to the penalties and interest imposed in this section.
- D. Where the conveyance consists of a transfer of property made as a result of an order of the court in a foreclosure proceeding ordering the sale of such property, the referee or sheriff

effectuating such transfer shall not be liable for any interest or penalties that are authorized pursuant to this chapter or article thirty-seven of the New York State Tax Law.

§ 60-18. Confidentiality of transfer tax returns.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the County or the Town, or any person engaged or retained on an independent contract basis, to divulge or make known in any manner the particulars set forth or disclosed in any return required under this chapter. However, nothing in this section shall prohibit the recording officer from making a notation on an instrument effecting a conveyance indicating the amount of tax paid. No recorded instrument effecting a conveyance shall be considered a return for the purposes of this section.
- B. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County or the Town in any action or proceeding involving the collection of a tax due under this chapter to which the County or the Town or an officer or employee of the County or the Town is a party or a claimant, or on behalf of any party to any action or proceeding under the provisions of this chapter when the returns or facts shown thereby are directly involved in such action or proceeding; in any of which events the court may require the production of and may admit in evidence so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more.
- C. Nothing herein shall be construed to prohibit the delivery to a seller or buyer of an instrument effecting a conveyance, or to the duly authorized representative of such seller or buyer, of a certified copy of any return filed in connection with such instrument or to prohibit the publication of statistics so classified as to prevent the identification of particular returns or the items thereof or to prohibit the inspection by the legal representatives of the County or the Town of the return of any taxpayer who shall bring action to set aside or review the tax based thereon.
- D. Any officer or employee of the County or Town who willfully violates the provisions of Section 1439-O of the New York Tax Law are subject to the sanctions provided therein.

§60-20. Intergovernmental Agreements Authorized.

The Town Board shall be authorized to, by resolution, enter into any intergovernmental agreement with the County of Columbia deemed necessary for the effective and efficient administration and enforcement of this local law.

SECTION III. - FORM OF PROPOSITION:

Pursuant to Section 1561 of the New York Tax Law and Section 23 of the New York Municipal Home Rule Law, this Local Law is subject to mandatory referendum. Therefore, the following proposition shall be submitted to the electors of the Town of Chatham at the general election to be held on November 7, 2023:

SHALL LOCAL LAW C (PROPOSED) OF 2023, A LOCAL LAW TO PRESERVE WORKING FARMS; PROTECT FARMLAND; PRESERVE AND ESTABLISH PARKS AND RECREATIONAL AREAS; AND PROTECT HISTORIC RESOURCES AND NATURAL AREAS; PROTECT THE WATER QUALITY OF RIVERS, LAKES, AND STREAMS, INCLUDING THE KINDERHOOK CREEK AND STONYKILL RIVER; AND PROTECT THE WATER QUALITY OF CHATHAM'S DRINKING WATER BY CREATING A ONE AND ONE HALF PERCENT REAL ESTATE TRANSFER TAX ON THE CONVEYANCE OF INTERESTS IN REAL PROPERTY IN THE TOWN, WITH REVENUES FROM THIS TAX TO BE DEPOSITED IN THE TOWN OF CHATHAM COMMUNITY PRESERVATION FUND, WHICH MAY BE MATCHED BY STATE AND FEDERAL FUNDING AND WHICH WILL REQUIRE FULL PUBLIC DISCLOSURE OF ALL SPENDING, BE APPROVED?

SECTION IV. STATEMENT OF AUTHORITY

This local law is authorized by the New York State Constitution, Article IX, Section 2, the provisions of the New York Municipal Home Rule Law (MHRL), the provisions of the Statute of Local Governments, Article 31-A-2 of the New York Tax Law, and the laws of the Town of Chatham.

SECTION V. - SEVERABILITY:

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION VI. - EFFECTIVE DATE; REPEAL DATE:

This local law shall take effect February 1, 2024 upon approval by the affirmative vote of the qualified electors of the Town of Chatham upon the proposition set forth in Section III hereof,

and after it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.

- **ANNOUNCEMENTS:**

1. Chatham Clean Up Day-May 20th
2. PS21: Program of World Premieres, June 2, 2023 @ 7:30 (String Orchestra)

- **CORRESPONDENCE:**

1. Phelps Road Re: Grading
2. Ichabod Crane CSD Re: 2023-2024 Budget
3. Ford Road Re: Road Conditions

- **SUB-COMMITTEE REPORTS:**

1. Broadband Committee- (Councilman Pitkin/Councilwoman Hallenbeck)
Hallenbeck - no talk on BB funding at state level. Nothing has changed from last month.
2. CAP (Chatham Agricultural Partnership)- (Supervisor Collins)
Nothing new
3. Climate Smart/Action Task Force Committee- (Councilman Werwaiss)
Nothing new.
4. Communications Committee- (Councilwoman Mesick)
Glitch with Mail Chimp so the spring edition is coming out tomorrow
5. Comprehensive Plan Update Review Committee- (Councilwoman Mesick)
Draft ready to share by the end of this month
6. Finance & Planning Committee- (Supervisor Collins)
Levow - all data not tabulated from the red director, Identified a plan to look at our big ticket projects. 5-10 years out.
7. Housing Committee- (Councilwoman Hallenbeck/Councilwoman Mesick)
pursue a needs survey. Patterns for progress. Bring back.
8. Parks & Recreation Committee- (Councilman Pitkin/Supervisor Collins)
Camp registration. is complete, increase in campers, 5 camper waiting list. Trail cleanup. Thanks to Donal for all your hard work down at Crellin. Camp is fully staffed. Park Day Aug. 19, in planning, boys and girls softball and soccer, trying a dj to attract a younger crowd. PS21 is sponsoring Mookinama sp? Starting work on the Master Plan, compiling information from the Comp Plan survey., Mackerer has procured trash receptacles at an auction which he donated to the park
9. Grants Appropriations Committee (Councilman Werwaiss)
Nothing new.
10. CAC (Councilman Werwaiss)
Finished work on community preservation plan.
11. Town & County (Supervisor Collins)
Report on file.....

Werwaiss left the meeting.....8:10PM

- **REPORTS ON FILE:**

1. Assessor

2. Code Enforcement/Building Inspector
3. Dog Control
4. Environmental Mgt Council
5. Finance Department
6. Highway Department
7. Justice Court
8. Office of the Aging Advisory Board
9. Recreation Director
10. Supervisor's Report
11. Town Clerk

- **NEW BUSINESS:**

1. Real Property Tax Exemptions
 - Volunteer Firefighters/Ambulance Workers
 - Senior Citizens
 - Disabled/Low Income

- **OLD BUSINESS:**

1. Juneteenth Holiday awarded to all employees
2. Invasives Committee
3. Park Master Plan

- **PUBLIC COMMENT**

Angus - there is funding to go towards Summer Fest on July 6 but asked if Climate Smart could have \$150.00 included in the next budget. They need money for a poster.

Wapner - asked about the 100K grant for pickleball courts when we don't yet have a Park Plan. Collins explained that the CC Youth Director was looking for was programmatic funding, then offering capital projects funding. So they asked the locals. Speaking to Kyle and everyone else about pickleball courts and the potential tension between the tennis community and pickleball players the money is there for courts.

Spencer - what's the status of the Park Master Plan? Pitkin - the review and update is being done by the Parks and Recreation Committee.

Bobseine - impressed with the organization of the meeting and Ingrid's presentation was very helpful. It is a huge amount of information to digest. Asked for clarification on the public hearings. Collins explained that the Public Hearings on LL A and B were closed and LL C remains open for people to continue to comment. The Board has the potential to adopt LL A and B tonight.

Trish - heard today from a resident who was impressed with the communication coming from the Town. She loves the newsletter, news blasts and the website. It was good to hear something positive for a change.

RESOLUTIONS:

1. **Resolution#106-23: To Approve the Town Board Minutes.**
WHEREAS, the Chatham Town Board approves the Town Board Minutes for March 16, April 6, and April 20, 2023.
 Offered by: Hallenbeck, seconded motion: Pitkin

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None
Resolution adopted

2. **Resolution#107-23: To Accept the Town Accountant's Financial Supervisor's Report.**

WHEREAS, the Chatham Town Board accepts the Town Accountant's Financial Supervisor Report for April, 2023.

Offered by: Mesick seconded motion: Pitkin

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None
Resolution adopted

3. **Resolution#108-23: To Accept the Financial Abstract as presented to pay the Town Bills.**

WHEREAS, the Chatham Town Board accepts the Financial Abstract #5A as presented to pay the Town Bills.

Offered by: Mesick, seconded motion: Pitkin

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None
Resolution adopted

4. **Resolution#109-23: To Recognize Juneteenth and award all employees a compensated day off from Town work**

WHEREAS, Juneteenth is a state and federally recognized holiday commemorating the emancipation of African American slaves, and

WHEREAS, the Town Board of the Town of Chatham supports the creation and observance of this holiday, and

WHEREAS, the Town Board of the Town of Chatham wishes to commemorate Juneteenth by awarding its employees in both bargaining and non-bargaining capacities a compensated day off from Town employment, and

NOW, THEREFORE BE IT RESOLVED, the Town Board of the Town of Chatham hereby grants June 19th of each year henceforth a compensated day off from Town employment for those workers scheduled to work on that day

Offered by: Mesick, seconded motion: Hallenbeck

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None
Resolution adopted

5. **Resolution#110-23:** To Task the Parks and Recreation Committee with developing an updated Parks and Recreation Master Plan

WHEREAS, the Town Board of the Town of Chatham recognizes the importance of a Parks and Recreation Master plan to address current and future park policy, infrastructure and maintenance, and

NOW, THEREFORE, BE IT RESOLVED, that the governing board of the Town of Chatham hereby requests that the Parks & Recreation Advisory Committee generate a Parks and Recreation Master Plan to address the current and future park and recreation needs of its residents.

Offered by: Pitkin, seconded motion: Mesick

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None

Resolution adopted

6. **Resolution#111 -23:** To Authorize Agreement Between Town and Stonykill Disc Golf

WHEREAS, the Town of Chatham has granted Stonykill Disc Golf Club a non-exclusive license to use the land adjacent to Town Hall for Recreational Disc Golf; and

WHEREAS, the initial term of this Agreement is for a one-year period and shall be renewed annually by execution of a new agreement; and

THEREFORE BE IT RESOLVED, the Supervisor is authorized to execute the 2023 annual agreement with Stonykill Disc Golf for the period of (1) year beginning as soon as the agreement is executed.

Offered by: Mesick, seconded motion: Pitkin

Mesick - coordinate their events as it impacts parking at the town hall.

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None

Resolution adopted

Resolution#112 -23: To Adopt LL A of 2023 To establish a Community Preservation Fund and Advisory Board

WHEREAS, the Chatham Town Board is considering Local Law A of 2023 to establish a Community Preservation Fund and Advisory Board, and

WHEREAS, a public hearing has been held May 18, 2023 at 6:55 PM for the enactment of said local law, and

WHEREAS, amendments that did not constitute a substantial change were made to the proposed Local Law. A following the public hearing, and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Chatham hereby approves the adoption of proposed amended Local Law entitled Local Law A of the year 2023, a local law to establish a Community Preservation Fund and Advisory Board.

Offered by: Mesick, seconded motion: Hallenbeck

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck, **NAY:** None
Resolution adopted

7. **Resolution#113 -23:** To Adopt LL B of 2023 To Adopt a Community Preservation Plan

WHEREAS, the Chatham Town Board is considering Local Law B of 2023 to adopt a Community Preservation Plan, and

WHEREAS, a public hearing has been held May 18, 2023 at 7:00PM for the enactment of said local law, and

WHEREAS, amendments that did not constitute a substantial change were made to the proposed Local Law.B following the public hearing, and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Chatham hereby approves the adoption of proposed amended Local Law entitled Local Law B of the year 2023, a local law to establish a Community Preservation Plan.

Offered by: Mesick, seconded motion: Pitkin
Collin thanked everyone who worked on the plan.

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None
Resolution adopted

8. **Resolution#114-23:** To authorize the formation of a Invasive Species Committee

WHEREAS, the Town Board of the Town of Chatham (hereinafter “the Town”) recognizes the incursion of multiple invasive species within many regions of the Town, and

WHEREAS, the Town wishes to identify, monitor, educate and potentially work to eradicate such invasives, and

NOW IT IS RESOLVED THAT the Invasives Committee (hereinafter “the Committee”) is hereby created to study the presence of invasive species within the town and

BE IT FURTHER RESOLVED THAT the Committee will work to educate the public on such a subject, and

BE IT FURTHER RESOLVED THAT the Committee is hereby constituted with a base population of five and will adhere to all parameters established with the Town Committee Protocol, and

BE IT FURTHER RESOLVED that the Committee will consist of the following members:

- A minimum of one town board member
- Volunteer residents

BE IT RESOLVED that the Chatham Town Board forms an Invasive Species Committee tasked with studying the threat of invasives within the Town, serving at the pleasure of the Town Board and shall advertise for such volunteers.

Offered by: Mesick, seconded motion: Hallenbeck

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck **NAY:** None

Resolution adopted

9. **Resolution#115-23: To Approve the 284 Agreement for 2023**

WHEREAS, the Chatham Town Board and the Superintendent of highways are required by Highway Law § 284 to enter into a written agreement stating the places and manner in which the highway Fund appropriations for repairs and improvements are to be expended; and

THEREFORE, BE IT RESOLVED, that the Chatham Town Board hereby accepts the 284 Agreement, submitted by the Highway Superintendent, to spend Town Highway Funds in 2023.

Offered by: Pitkin, seconded motion: Hallenbeck

VOTE:

AYE: Collins, Pitkin, Mesick, Hallenbeck, **NAY:** None Resolution

adopted

• **PUBLIC COMMENT**

Angus - does the Town have the authority to purchase things through Sourcewell?

Tal-Yes, if they follow our procurement policy

Mesick - passed out the flier on the torango crabapple that the Invasives Committee has been working on.

• **MOTION TO CLOSE MEETING**

Motion was made by Pitkin, seconded by Mesick and carried to adjourn at 8:30 PM adjourned.

Respectfully submitted by, Beth Anne Rippel, Town Clerk